Edn & P. H. **(1939) Department**

MS SERIES.

G.O. No. 1403 (P. H.)

DATED 18-4-39

[Despatch Abstract.]

Buildings - Mangalore Municipality - Certain constructions in violation of rules Orders passed.

DEPARTMENT.

Received 28 NOV 1938 19

Registered 51358 19

Subject.

LICENSES - Building - Refusal by Executive Authority - Order of Council on appeal - Relaxation of Building Rules - Solicited.

****

ENCLOSURES.
No.
Spare copies

REF.C. No. 13561-A3-38

Station Mangalore, , *Dated the* 17th November 1938.

From (Name) Sri K. P. Kandaswami Pillai,

(Designation) Commissioner, Mangalore Municipality, Mangalore.

To The Secretary to the Government of Madras,

Through:- EDUCATION & PUBLIC HEALTH Department.
FORT ST. GEORGE, M A D R A S.

Sir,

The Chairman,
Municipal Council, Mangalore.

In the following five cases licenses under the Building and Town Planning Rules as the case may be were refused by the Executive Authority and the parties appealed to the Municipal Council. In considering such appeals, the Council has decided to grant licenses subject to the approval of the Government and on condition that appellants execute registered bonds in favour of the Council agreeing to remove the structures whenever so directed without claiming any

Compensation

compensation from the Council. A brief history of each case is given in the form annexed with the copies of notes placed before the Council by the Commissioner. A form of the bond to be executed by the parties is also enclosed.

As the Government have expressed in G.O. No. 1971 Edn. & Public Health Department, dated 30th May 1938 that they are prepared to consider individual cases deserving relaxation of the building rules, it is prayed that the breach of rules in these cases may be condoned and that the Government may be pleased to allow the above structures to stand over on the parties executing bonds in favour of the Council.

Commissioner, M.M.

F o r w a r d e d.

Mangalore,
Dated: 23. 11. 1938.)

B. Venkataraya Baliga
Chairman, M. C.

Compd/ 24.11.
PST:21.11.

Name of the Party.	Nature of Construction.	Nature of offence Ref.Bldg..rules.	Council Resolution.	Remarks.
1) L. B. Mascerenhas.	Construction of storied Building.	Violation of Rule 8 of Building rules.	No.46 dated 10th October 1938.	
2) K. Husseinabba.	Shed Construction.	Violation of Rule 8 of Bldg.Rules and interference with the widening of a lane under the Town Planning Scheme for the area.	No.25 dated 10th September 1938.	
3) The Secretary, C.P.C.Co. Ltd.,	Latrine construction.	Interference with the proposed road under the Town Planning Scheme for the area.	No.23 dated 19th September 1938.	
4) Ritha DeMello.	Building extension for purpose of a bath room.	Interference with the proposed road under the Town Planning scheme for the area.	No.19 dated 19th September 1938.	
5) Guruvamma.	Construction of a dwelling house.	Violation of Rule 8 and 24 of Building Rules.	No.20 dated the 19th September 1938.	

Municipal Office, Mangalore,
Dated the 17th November '38.

Compd/ 21.11
PST.21.11.

Commissioner, M.M.

4

Commissioner's Note.

Licence Building reconstruction-T.S.No. 145/2-4 of 22nd ward-Provision of a 2nd floor-Refusal of licence Prosecution-appeal.

On 24th April 1937 Mr. L.B.Mascarenhas was granted permission to reconstruct a building T.S.No. 145/2-4 of 22nd ward and one of the conditions of licence was that the building should be 4 feet away from street alignment. After the issue of the licence it was reported that the licensee was putting up a 2nd floor (storey) to the building contrary to the licence. The party applied for a licence on 6th August 1937for this also but after a notice was issued to him from this office . Licence was refused to him on 31st August 1938 as he did not leave 4 feet space from the road edge and as the plans submitted were inaccurate. A provisional order under section 216 (1) and (2) of the Act was issued on 25th February 1938 for the demolition of the storied portion constructed without a licence and the portion standing on the 4 feet space. In reply to the provisional order the party replied that the work of construction was proceeded with in anticipation and owing to the threatening monsoon. He has also expressed in his petition dated the 6th March 1938 that he is ready to give any undertaking. When this petition was referred to the Municipal Health Officer he returned it stating that the four feet rule should be insisted on in all cases. The provisional order was confirmed on 16th May '38 and a prosecution was launched on 25th June 1938. The confirmation order was served on the party on 22nd May '38 and appeal preferred by him against this order was received in the office on 29th June '38. As this was not presented in a month from the date of service of the confirmation order it is time barred. The file was pending in the Municipal Health Officer's Office in connexion with the prosecution. The appellant's contention is that the lower portion of the building was not at all demolished but was only repaired and white-washed and that the storied portion was put up on the old foundation under the impression that the 4 feet rule would not be applicable. The original application was for reconstruction and licence was accordingly granted. Hence the 4 feet fule was a plicable. The storied portion put up is not a licensed one. The case now pending in the Bench Court has been adjourned to 10th Octr.'38 and the President of the Bench Court has been addressed to adjourned the case to the second week of Octr.'38.

The Council is requested to decide.

28th Septr.'38. Sd. K. Govindarajulu,

Commissioner, M.M.

HED

1.3 " True Copy"

K Govindarajulu

Commissioner, M.M.

40

Resolution No. 46 dated 10th Octr.'38.

Licence will be granted subject to the approval of the Govt. and on condition of petitioner executing a registered bond similar to the bonds hitherto taken.

Sd. B. Venkatrao Baliga,

Chairman, M.C.

/True Copy/

21.11.38.

K Govindarajulu

COMMISSIONER, M.M.

Commissioner's Note,

Subject:- Licence--Building construction-T.S.No. 1323/A of 6th Kudroli Ward.

Mr. K. Hussainabba applied on 15th January 1938 for permission to construct a building in T.S.No. 1323/A of 6th Ward. The plans furnished by the party were defective in may respect and he was therefore asked in this office endorsement dated the 5th February 1938 to furnish correct plans and not to proceed with the work. Mr. Hussainabba furnished some plans on 5th March 1938. Licence was refused to him on 30th March 1938 as the required 5 feet space from the Muslar lane infront of the premises was not left. It is proposed to widen the lane in the Town Planning Scheme. It was reported by the Sanitary Inspector on 7th April 1938 that the party had completed the extension. A provisional order under section 216 was issued on 22nd April 1938 and Mr. Hussainabba was directed to demolish the unlicensed extension and this order was subsequently confirmed on 28th May 1938 as no satisfactory cause was shown. However the party in his petition dated the 28th April 1938 has expressed that he is prepared to execute a registered bond undertaking to remove the newly added portion without claiming any compensation at the time of widening the road. He has also appealed to the council and prays that the extended portion built in a line with the existing building may be allowed to stand on his undertaking to execute a registered bond. Licence was refused on 30th March 1938 and provisional order was served on the party on 27th April 1938. The appeal has not been preferred within 30 days from the service of either the refusal or provisional and hence is time barred.

Municipal Office,
Mangalore, 13/6/38.

Sd. K.Govindarajulu,
Commissioner, M.M.

"True Copy "

K Commissioner, M.M.

Resolution No. 25 dated 19th Septr.'38.

Licence will be granted subject to the approval of the Government and on condition of the petitioner executing a registered bond similar to the bonds hitherto taken.

21-11.

Sd. B. Venkatrao Saliga,
Chairman, Municipal Council.

/True Copy/

21.11.38.

COMMISSIONER,M.M.

Commissioner's Note.

Licence- Construction of a latrine-T.S.No.175/2-2 of 2nd ward- C-P-C.Co.-Objection petition of M. Amba Bai-Proposed road under Town Planning Scheme-Provisional Order-Appeal.

Licence for the construction of a latrine in T.S.No. 175/2-2 of 2nd ward was refused to the Secretary, Canara Public Conveyance Co.Ltd., Mangalore as the site selected for the latrine forms the site of a road under the Town Planning Scheme for the area. Mrs. Amba Bai has also been raising objections to the site as a latrine in that place is likely to cause nuisance to her tenants and as it is very near to her drinking water well. As the Secretary of the Company has been proceeding with the work even after the refusal of licence, a provisional order under section 216 of the Act was served on 21-1-1938.

In his letter of 6-1-1938, the Secretary writes that a registered bond agreeing to remove the latrine at their own cost at the time of the formation of the road under Town Planning Scheme would be given if necessary. He has also appealed to the Council against the order issued for the demolition of the unlicensed latrine. His appeal may be perused by the Council. Pending disposal of the appeal, I have stayed further proceedings against the party.

10-2-1938. Sd. K.Govindarajulu,
Commissioner, M.M.

"True Copy

Commissioner, M.M.

Resolution No. 23 dated 19th Septr.'38.

Licence will be granted subject to the approval of the Government and on condition of the C.P.C.Co. Ltd. executing registered bond similar to the bonds hitherto taken.

~~True Copy~~

Sd. B.Venkatrao Baliga,,
Chairman, M.C.

21-11-

True Copy

21st Novr.1938. Commissioner,M.M.

Commissioner's Note.

On 1st February 1937, Mrs. Ritha D'Mellow applied for a licence for the construction of a latrine and extension of her building in T.S.No. 769-1 of 5th ward. The proposed extension was meant to be used as a bath shed. Licence for the construction of the bath shed was refused in this office endorsement dated the 16th March 1937 as the site falls within the proposed road under Town-Planning Scheme for the area and licence for the construction of the latrine was granted. The Town Planning Committee in its resolution no. V (12) dated 18th march 1937, also approved of the Commissioner's action in refusing licence for the bath shed. The Sanitary Inspector in his reports dated the 21st April '37 and 14th November 1937 brought to notice that the party was constructing the bath shed inspite of refusal of the licence. An order under section 316 for the demolition of the unlicensed structure was issued on 1 st December 1937 and it was confirmed on 15th December 1937 as no satisfactory cause w s shown against the demolition order.

The party has now applied to the council against the Commissioner's orders on the ground that there is no space in the compound for constructing a separate bath-shed for the building and that the said shed is absolutely necessary. She requests to stay further proceedings against her until the disposal of the appeal and further action has been stayed pending the council's decision on the appeal.

7th Feb,'38.

Sd. K. Govindarajulu,
Commissioner, M.M.

" True Copy "

Commissioner, M.M.

Council Resolution No. 19 dated 19th Septr.'38.

Licence will be granted subject to the a proval of the Government and on condition of petitioner's executing registered bond similar to the bonds hitherto taken.

Sd. B. Venkatrao Baliga,
Chairman, Municipal Council.

21-11.

/True Copy/

21st November 1938.

Commissioner,M.M.

Commissioner's Note.

On 16th April 1937 an application requesting licence to construct a building in T.S.No. 1572-6 of 1st ward was received from Mrs. Guruvamma. Licence for the construction of the building was refused as (1) four feet space was not left from the street alignment (2) as 10 feet space was not left at the rear of the building (3) as one third of the total area of the site was not left open to the sky (4) as there was no proper site for the construction of a latrine. The refusal order was communicated to her on 25th May 1937 and for constructing the building without a licence and violating the building regulations, she was prosecuted and fined annas eight. As the unauthorised building is still existing a provisional order and a notice under section 216 were issued directing her to demolish the building and to show cause why the notice issued should not be confirmed.

While appealing to the council against my order Mrs. Guruvamma says that the order refusing licence was not communicated to her and requests to withhold further proceedings until the disposal of her appeal. She is requesting to permit her to retain the building.

I may inform the council that the statement of the appellant regarding the non service of the refusal order is not correct. The order refusing licence was served on her on 25th May 1937 and her thumb impression was obtained by the sanitary maistry. The council is however requested to decide the matter.

Municipal Office,
Mangalore, 18/9/37.

Sd. C.R.Karunakara Menon.
Commissioner, M.M.

"True Copy "

Commissioner, M.M.

Resolution No. 20. Dated 19th Septr.'38.

Licence will be granted subject to the approval of the Government and on condition of petitioner's executing registered bond similar to the bonds hitnerto taken.

Sd. B. Venkatrao Baliga.
Chairman, Municipal Council.

21.11.

/True Copy/

21st November 1938.

COMMISSIONER.M.M.

Agreement executed by

-

hereinafter called the Covenantor in favour of the Municipal Council, Mangalore represented by Commissioner,

residing in Mangalore town, hereinafter called the Covenantee.

Whereas the Covenantee has undertaken to issue to the Covenantor a license to construct a building as per sketch enclosed and fully described in the schedule below in consideration of the Covenantor executing an agreement that he shall pull down the structures constructed on the above said plot at his own expense without claiming any compensation for the above structures constructed on the said plot in pursuance of the said license and whereas the Covenantor has agreed to the above conditions.

Now this indenture witnesseth that the Covenantor shall not, if the Municipality shall in future require the said plot or any portion thereof for the extension of the proposed Town Planning Roads, etc. claim any compensation for the buildings or structures which he will construct on the said plot in pursuance of the said license and the Municipality shall be entitled to acquire the same free of charge.

Description of property.

T.S.No.	R.S.No.	Kissum	Extent.	Remarks.

P.T.O.

Building situated in

Mangalore Town, Mangalore sub-district on the

Compd/ 25-11.

H.D.U.25/11/38.

AGREEMENT executed by son of

residing at

Mangalore town, hereinafter called the Covenantor in favour of the Municipality Council, Mangalore, represented by the Commissioner,

residing in Mangalore Town, hereinafter called the Covenantee.

Whereas the Covenantee has undertaken to permit the Covenantor to allow the portion of the building constructed on the four feet space from the road alignment as shown in the sketch enclosed and fully described in the Schedule below, in consideration of the Covenantor executing an agreement that he shall pull down the structure constructed on the 4 feet space at his own expense without claiming any compensation and whereas the Covenantor has agreed to the above conditions.

Now this Indenture witnesseth that the Covenantor shall not if the Municipality shall in future require the said space for the extension of the road under the Town Planning Scheme claim any compensation for the portion of the building standing within 4 feet from the road alignment and the Municipality shall be entitled to acquire the same free of charge.

Description of the Property.

T.S.No. R.S.No. Kissum Extent.

Building situated on the

In witness whereof I hereto set my hand this day of 193 at Mangalore.

25.11.

12

Edn & P.H. dept.

C. No. 51358 F. From the Commr, Mangalore Mtg,

Ref. C. No. 13561-A3-38 of 17-11-38

Memo No. 51358 F/38-1 of 30-11-38

Reminded on 17-1-39

Reminded on 15-3-39

Buildings – Mangalore Mtg – Rules – Exemption.

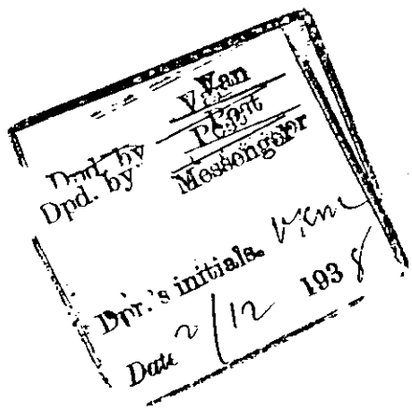
Referred to the D.T.P. for remarks.

SRK
30-11-38

To

The D.T.P. (with cf).

HP
28/11/38



No 218

23-1-39

REMINDER.

Edn & P. H. DEPARTMENT.

Public Health Branch.

To THE Director of Town Planning

13 7

4881

D.TP. 206/39

4-2-39.

C.F. 98

REPLY.

RECEIVED 6 - FEB 1939

To THE Secretary to Government Education & P.H. Department

I ~~have the honour to invite~~ am directed to invite ~~invite~~ attention to Memo

No. 5-135 8/38 dated 30-11-38 and

~~to request that the reply to it may be expedited~~ with request that this reminder may be returned at once information as to—

~~(1) the stage at which the matter now is,~~

(2) the date by which a reply may be expected, and

~~(3) the circumstances which have caused the delay.~~

A reply will be sent on receipt of connected building application files from the Commissioner.

Office Edn & P.H. Dept

Station Madras George.

Signature. S R Kavi

Designation. Under secretary to govt.

Dated 19-1-39

SUBJECT.

Buildings - Mangalore Municipality - Rules - Exemption.

Recommended 4.2.39

For Director of Town Planning.

Read 23.1.39.

Edn & P. H. Dept.

The D. T. P. may be
reminded again on 7-3-39

7/2/39

14/2/39.

Reminded

15/3

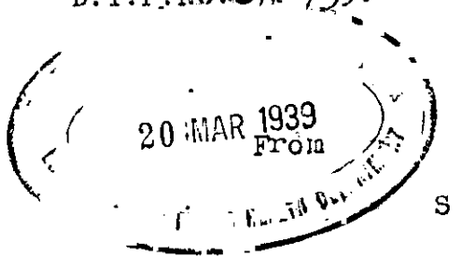
Education and Public Health Department

Subject.- 11483

Buildings - Mangalore Municipality - Rules - exemption.

******

D.T.P.No.611 /39. Dated the 18th March 1939.



S.Ranganathan Esq.,O.B.E.,I.C.S.,
Ex-officio Director of Town Planning,Madras.

To

The Secretary to Government,
Education & P.H. Department.

Encls: 5 Files

Ref: Govt.Memo.No.51358 F/38-1,dated 30-11-1938

******

Resubmitted with the following remarks.

Case No.1 L.B.Mascarenhas. There is no justification for exempting the building from the operation of rule 8 or for approving the action of the council in sanctioning the building under the condition specified in its resolution No.46 dated 10-10-1938.

Case No.2 - K.Husseinabba. The party has not left the required margin under rule 8 from the Puslar lane which is only 10 feet in width. Further the lane has been proposed to be widened under a T.P.scheme, the construction put up by the party falling within the limits of such widening. The construction is objectionable. The Government may refuse to approve the action taken by the council in its resolution No. 25 dated 10-9-1938.

Case No.3 - latrine - T.S.No.175/2-2 - 2nd ward. by C.P.C.Co.Ltd. - objection of M.Amba Bai. The latrine falls on the site of a road proposed in a T.P.Scheme. Its location is also objected by the owner of the neighbouring property as likely to contaminate her drinking water well and endanger the health of the occupants of her house. The Government may refuse to approve the action taken by the council in its

resolution No.23. dated 19-9-1938.

Case No.4 - Mrs. Ritha D'mellow. License should not be granted for the additional construction as it falls within the proposed road in a T.P.Scheme. The Council may take steps for removal of the building under Sec.19 of the T.P. Act, immediately after sanction of the scheme by the Government.

Case No.5. Mrs. Guruvamma. The Council should not permit any construction in contravention of rule 8 under any circumstance whatever, unless exemption is granted by Government under Sec.192. In the special circumstances of the case, the Government may however exempt the building from the operation of rule 8 provided the room shown in the plan as cow shed is removed and kept as appurtenant open space to the building. A latrine should be provided in the corner of the site which is farther away from the roads.

The concerned building application files received from the Commissioner, Mangalore municipality are sent herewith for perusal, which may be returned to the Commissioner by the Govt. with their orders.

for Ex-officio Director.

S.C.18/3

Edn & P.H. draft.

pp 1-2 of C. No. 51358 F From the Comm., Mangalore Mtg, Ref. C. No. 13561-A3-38, dt 17-11-38.

pp 15-16 of " 11483 F From the D.T.P., No. 611/39, dated 18-3-39.

Buildings - Mangalore Mtg - Constructions in violation of rules.

Please see the letter of the Comm, Mangalore Mtg, on pp 1-2 of and the remarks of the D.T.P., on pp 15-16 of. Of the 5 cases submitted for orders,

p. 3 of Nos 1, 2 and 5 are constructions in contravention of the building rules, while Nos 3 and 4 are constructions put up on sites which form part of proposed roads in a T.P. Scheme for the area under preparation. The

pp 15-16 of D.T.P. recommends that the Govt should not approve the proposal of the Comm in respect of the latter two cases (cases 3 & 4 of the table on p 3 of).

A draft order on the lines recommended by the D.T.P. is submitted.

S.R.K
17.4.39

H.L.
14/4/39.

JD
15/4/39

S. [illegible] 18.4.39

C.F. 16.

72/194 **DRAFT FOR APPROVAL.**

Date. Initials.

SUBJECT:— Edn & P.H. Dept.

When received for fair copying ...		
When copied ..		
When examined..		
When signed ..		
When despatched.		

Buildings - Mangalore Mtg - Certain Constructions in violation of rules - Orders passed.

READ AGAIN _____, dated _____ 19____.

" " _____ .. _____ 19____.

READ *ALSO*:—

bp 1-2 of No. 5/13581 From the Commr., Mangalore Mtg. Ref-C. No. 13561/A3/38, dated 17-11-1938.

bp 15-16 of " 11483F " D.T.P. " 611/39 " 18-3-1939.

" _____ .. _____ " _____ " _____ 19____.

Order ~~Resolution~~ Ms. No. 1403 P.H., dated 18. 4. 1939.

His Excellency the Govr of Madras sees no sufficient reason to exempt the following buildings in the Mangalore Mtg, ~~which will not be exempted~~ from the operation of rule 8 of the building rules issued with G.O. No. 1621 P.H., dated 30-7-32:-

(T)

Case 1 — p 15 of

p 4 of

(1) The storied building constructed by Mr. L.B. Mascarenhas in T.S. No. 145/2-4 of Ward No. 22; and

case 2 — p. 15 of

p. 5 of

(2) The building constructed by Mr. K. Hussainabba in T.S. No. 1323A of Ward No. 6.

2. The building

Case 5 — p. 16 of

constructed by Srimati

Gunnamm

Guruvamma in T. S. No. 1572-6 of Ward No. I, Mangalore, is exempted from the operation of rule 8 of the building rules, subject to the condition that the room which is shown as a cow shed, is removed and kept as ~~an appurtenant~~ open space ~~to the building~~. A latrine should be provided in the corner of the site which is further away from the roads.

p 8 cf.

(T)

p. 16 cf

No site

3. The proposals of the Mc Council in its resolutions Nos 19 and 23, dated 19-9-38, granting licences to the following buildings are not approved as ~~they fall~~ No building are on the site of proposed roads in the T. P. Scheme for the area:-

pp 7 & 6 cf

(1) The bath shed constructed by Mrs Ritta D'Mellow in T. S. No. 769-1 of Ward

case 4 — p. 16 cf

p. 7 cf

No. 5; and

case 3 — pp 15-16 of p. 6 of (2) the latrine constructed in T. S. No. 175/2-2 of Ward No. 2, by the Secretary, Canara Public Conveyance Co., Ltd., Mangalore. The Council p. 16 of may take steps for removal of the above unauthorised constructions under section 19 of the T. P. Act immediately after sanction of the T. P. Scheme by Govt.

H.I. 14/4/39

To

The Comm., Mangalore Mcty, thro' the C. M. C. (with Mcl. files)

The D. T. P. ✓

G, A, L, D, R

SRY 17.4.39.

Dated by hand Regd. Post. Messenger

Rec. 20/4

193